

REPRESENTATIVE FOR PETITIONER: Alma V. White, Administrative Board Member

REPRESENTATIVES FOR RESPONDENT: Ayn K. Engle, Attorney at Law
Marilyn S. Meighen, Attorney at Law

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Christ United Methodist Church,	)	Petitions:	45-004-15-2-8-01655-16
	)		45-004-15-2-8-01656-16
	)		45-004-15-2-8-01657-16
Petitioner,	)		45-004-15-2-8-01658-16
	)		45-004-15-2-8-01659-16
v.)		
	)	Parcels:	No. 45-08-10-302-004.000-004
Lake County Assessor,	)		No. 45-08-10-302-009.000-004
	)		No. 45-08-10-302-008.000-004
	)		No. 45-08-10-302-005.000-004
Respondent.	)		No. 45-08-10-302-006.000-004
)		
	)	County:	Lake
)		
	)	Assessment Year:	2015

Appeals from the Final Determinations of the
Lake County Property Tax Assessment Board of Appeals

February 6, 2019

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

INTRODUCTION

1. Christ United Methodist Church (“CUMC”) claims that the five vacant parcels should be exempt from taxation on the basis that they are owned by a church, and it has taken steps to develop the property as a community garden. CUMC failed to show the subject property qualifies for either a religious exemption, or an exemption for vacant land. Thus, we find the subject property to be 100% taxable.

PROCEDURAL HISTORY

2. CUMC filed Form 136 exemption applications with the Lake County Assessor’s Office. The Lake County Property Tax Assessment Board of Appeals (“PTABOA”) found all of the properties to be 100% taxable.
3. The Church then filed timely Form 132 petitions as to all of the properties with the Indiana Board of Tax Review (“Board”) appealing the PTABOA’s denials.
4. On September 26, 2018, the Board’s designated Administrative Law Judge (“ALJ”), David Smith, held a hearing on CUMC’s petitions. Neither the Board nor the ALJ inspected the subject property. Alma V. White and Pastor G. Thomas Jones were sworn and testified under oath.
5. The Parties offered the following exhibits¹:

Petitioner’s Exhibit I:	August 16, 2011 letter from City of Gary,
Petitioner’s Exhibit II:	February 3, 2012 letter and environmental report,
Petitioner’s Exhibit III:	Documents from Dun & Bradstreet; System for Award Management; and U.S. Department of Agriculture (“USDA”),
Petitioner’s Exhibit IV:	USDA aerial photos of properties (4),
Respondents Exhibit A:	Form 136 applications (2015),
Respondent’s Exhibit B:	Form 136 applications (2006),
Respondent’s Exhibit C:	Form 120 Notices of Action (2016),

¹ Respondent’s Exhibits T and U were included in the Respondent’s exhibit packet but were not offered into evidence. We did not consider them in reaching our decision.

Respondent's Exhibit D:	Form 120 Notices of Action (2008),
Respondent's Exhibit E:	Form 132 Petitions to the Indiana Board of tax Review,
Respondent's Exhibit F:	CUMC Articles of Incorporation and Indiana Certificate of Incorporation,
Respondent's Exhibit G:	April 6, 2016 IRS letter and October 16, 1974 IRS letter regarding 501(c)(3) status,
Respondent's Exhibit H:	CUMC Article II-Purpose and Memo of Understanding between Christ United Methodist Church and Stewart House Urban Farm and Gardens, dated March 14, 2012 ("Bylaws"),
Respondent's Exhibit I:	Stewart House Urban Farm and Gardens, Inc. Articles of Incorporation, Indiana Certificate of Incorporation, and Certificate of Amendment,
Respondent's Exhibit J:	Christ United Methodist Church Fund Balance Reports and Treasurer's Report,
Respondent's Exhibit K:	Summary of selected financial data Christ United Methodist Church 2012-2014,
Respondent's Exhibit L:	Lake County Property Tax Assessment Board Requests for Site Inspection, including supporting pictures and images,
Respondent's Exhibit M:	Lake County Assessor file notes,
Respondent's Exhibit N:	Stewart House Urban Farm & Gardens letter from Alma White to Jerome Prince, dated September 16, 2016,
Respondent's Exhibit O:	Satellite imagery of subject area,
Respondent's Exhibit P:	Picture and posts from social media accounts for Stewart House Urban Farm and Garden and Christ United Methodist Church,
Respondent's Exhibit Q:	Stewart House Urban Farm and Gardens Seed Money Fundraiser website,
Respondent's Exhibit R:	Black's Law Dictionary, Seventh Edition-definition of "Bylaw",
Respondent's Exhibit S:	Property Record Cards,

6. The record also includes the following: (1) all pleadings, briefs and documents filed in the current appeals; (2) all orders and notices issued by the Board or our designated Administrative Law Judge; and (3) a digital recording of the hearing.

FINDINGS OF FACT

7. CUMC, a church organized as a non-profit organization, has owned the subject property since its inception in 2004. It consists of five parcels of unimproved land located on the 1500 block of Massachusetts Ave. in Gary, Indiana. The parcels are not contiguous with a church building. In 2006, it was CUMC's intent to erect a church building on the subject property. By 2011, those plans had been abandoned in favor of a plan to create a community garden. To accomplish this, CUMC created Stewart House Urban Farm and Gardens, Inc. ("Stewart House"). The stated purpose of Stewart House was "To plant and grow food crops for sale at local farmers markets as a model to educate the community in sustainable food producing and living practices." It was CUMC's plan to have Stewart House serve as an "outreach" extension of the church, whose primary purpose was to manage the development of the community garden. CUMC and Stewart House executed a memorandum of understanding providing that CUMC would continue to own the subject property while Stewart House would develop the community gardens. This agreement also included other parcels owned by CUMC that are not under appeal. *White and Thomas testimony; Resp. Ex. F, G, I, O.*

8. After taking a number of steps, including having the soil tested, CUMC and Stewart house created community gardens on two lots contiguous to the subject property. One of these lots also has a shipping container used to store gardening supplies. As of the assessment dates, the subject property was vacant and overgrown. It is CUMC's intent to erect "hoop houses" to expand their community garden onto the subject property, but that project is on hold due to a lack of resources. *White and Thomas testimony; Petitioner's Ex. I and II.*

CONCLUSIONS OF LAW

9. Although tangible property in Indiana is generally taxable, the legislature has exercised its constitutional power to exempt certain types of property. *Hamilton County Property Tax Assessment Bd. of Appeals v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654, 657 (Ind. 2010). A taxpayer bears the burden of proving it is entitled to an exemption. *Oaken*

Bucket, 938 N.E.2d at 657. Exemption statutes are strictly construed against the taxpayer. Every exemption case “stand[s] on its own facts,” and it is the Petitioner’s duty to walk the Board through the analysis. *Id.*

10. Although CUMC is an IRS Code § 501(c)(3) non-profit, the grant of federal or state income tax exemption does not entitle a taxpayer to property tax exemption. *See Raintree Friends Housing, Inc. v. Indiana Dep’t of Revenue*, 667 N.E.2d 810,813 (Ind. Tax Ct.1996) (non-profit status does not automatically entitle a taxpayer to tax exemption). Similarly, property owned by a church is not automatically exempt. Rather, ownership is only one factor in determining whether a property qualifies for an exemption. “The taxpayer must present probative evidence during the Indiana Board hearing which demonstrates that its property is owned for exempt purposes, occupied for exempt purposes, and predominately used for exempt purposes.” *Jamestown Homes of Mishawaka, Inc. v. St. Joseph County Assessor*, 914 N.E.2d 13, 14 (Ind. Tax Ct. 2009).
11. All or part of a building that is owned, occupied, and predominantly used for educational, literary, scientific, religious, or charitable purposes is exempt from taxation. *See* Indiana Code § 6-1.1-10-16(a); I.C. § 6-1.1-10-36.3. That exemption extends to the land on which the building is situated and to personal property contained therein. I.C. § 6-1.1-10-16(c); (e). In addition, I.C. § 6-1.1-10-21 provides a specific exemption for buildings used for religious worship and for parsonages.
12. The subject property consists of vacant lots not associated with a building used for religious purposes. In this case, even though the subject property is owned by a church, it does not qualify for a religious exemption because there is no evidence it is being used for religious purposes.
13. In addition, Indiana law strictly limits the availability of property tax exemptions for unimproved land. The subject property may have previously qualified for an exemption under I.C. § 6-1.1-10-16(d), which provides an exemption for land purchased for the

purpose of erecting an exempt building such as a church. But CUMC abandoned its plan to erect a building several years before the assessment date.

14. I.C. § 6-1.1-10-16(c)(3) provides an exemption for unimproved land. The exemption statute extends to a tract of land that meets the following statutory requirements:

(3) the tract:

(A) is owned by a nonprofit entity established for the purpose of retaining and preserving land and water for their natural characteristics;

(B) does not exceed five hundred (500) acres; and

(C) is not used by the nonprofit entity to make a profit.

Although CUMC meets the requirements of (B) and (C), it fails the subsection (A) because there is no evidence that it was established “for the purpose of retaining and preserving land and water for their natural characteristics.”

15. CUMC claims that the PTABOA erred in denying its application because its proposed use is similar, if not identical, to the current use of other property that has been granted an exemption. But each case stands on its own facts, and CUMC needed to affirmatively show that the subject property met the statutory requirements for an exemption. Thus, while CUMC has the laudable goal of using the subject property for a community garden, we are unable to grant relief under the law.

CONCLUSION

In accordance with the above findings of fact and conclusions of law, we find the subject property is 100% taxable for the 2015 assessment year.

ISSUED: February 6, 2019

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.